

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 613**

Introduced by Dierks, 40.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-4931, 77-5406, and 77-5540, Reissue Revised Statutes  
3 of Nebraska, and sections 77-4104.01 and 77-5724, Revised  
4 Statutes Cumulative Supplement, 2008; to eliminate  
5 a restriction on base-year employees in certain tax  
6 incentive programs; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 77-4104.01, Revised Statutes  
2 Cumulative Supplement, 2008, is amended to read:

3                   77-4104.01 The following transactions or activities shall  
4 not create any credits or allow any benefits under the Employment  
5 and Investment Growth Act except as specifically allowed by this  
6 section:

7                   (1) The acquisition of a business which is continued  
8 by the taxpayer and which was operated in this state during the  
9 three hundred sixty-six days prior to the date of application or  
10 the date of acquisition, whichever is later. ~~All employees of the~~  
11 ~~acquired business during such period shall be considered base-year~~  
12 ~~employees, and the compensation paid during the base year or the~~  
13 ~~year before acquisition, whichever is later shall be the base-year~~  
14 ~~compensation.~~ Any investment in the acquisition of such business  
15 shall be considered as being made before the date of application;

16                   (2) The moving of a business from one location to  
17 another, which business was operated in this state during the  
18 three hundred sixty-six days prior to the date of application. All  
19 employees of the business during such three hundred sixty-six days  
20 shall be considered base-year employees;

21                   (3) The purchase or lease of any property which was  
22 previously owned by the taxpayer or a related person. The first  
23 purchase by either the taxpayer or a related person shall be  
24 treated as investment if the item was first placed in service in  
25 this state after the date of the application;

1           (4) The renegotiation of any lease in existence on the  
2 date of application which does not materially change any of the  
3 terms of the lease, other than the expiration date, shall be  
4 presumed to be a transaction entered into for the purpose of  
5 generating benefits under the act and shall not be allowed in the  
6 computation of any benefit or the meeting of any required levels  
7 under the agreement;

8           (5) Any purchase or lease of property from a related  
9 person, except that the taxpayer will be allowed any benefits  
10 under the Employment and Investment Growth Act to which the related  
11 person would have been entitled on the purchase or lease of the  
12 property if the related person was considered the taxpayer;

13           (6) Any transaction entered into primarily for the  
14 purpose of receiving benefits under the act which is without a  
15 business purpose and does not result in increased economic activity  
16 in the state; and

17           (7) For applications received after April 16, 2004, any  
18 activity that results in benefits under the Ethanol Development  
19 Act.

20           Sec. 2. Section 77-4931, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           77-4931 The following transactions or activities shall  
23 not create any investment, result in an increase in the number of  
24 new employees, or create any wage benefit credits under the Quality  
25 Jobs Act except as specifically allowed by this section:

1           (1) The acquisition of a business located in this state  
2 which is continued by the company and which was operated in this  
3 state during the three hundred sixty-six days prior to the date of  
4 application or the date of acquisition, whichever is later. ~~All of~~  
5 ~~the employees of the acquired business during such period shall be~~  
6 ~~considered base-year employees.~~ Any investment in the acquisition  
7 of such business shall be considered as being made before the date  
8 of application;

9           (2) The moving of a business from one location in this  
10 state to another, which business was operated in this state during  
11 the three hundred sixty-six days prior to the date of application.  
12 All employees of the business during such three hundred sixty-six  
13 days shall be considered base-year employees;

14           (3) The purchase or lease of any property which was  
15 previously owned by the company or a related person. The first  
16 purchase by either the company or a related person shall be treated  
17 as investment if the item was first placed in service in this state  
18 after the date of the application;

19           (4) The renegotiation of any lease in existence on the  
20 date of application which does not materially change any of the  
21 terms of the lease, other than the expiration date, shall be  
22 presumed to be a transaction entered into for the purpose of  
23 generating benefits under the act and shall not be allowed in the  
24 computation of the meeting of any required levels of investment  
25 under the agreement;

1           (5) Any purchase or lease of property from a related  
2 person, except that the company will be allowed benefits under  
3 the act to which the related person would have been entitled on  
4 the purchase or lease of the property if the related person was  
5 considered the company; and

6           (6) Any transaction entered into primarily for the  
7 purpose of receiving benefits under the act which is without a  
8 business purpose and does not result in increased economic activity  
9 in this state.

10           Sec. 3. Section 77-5406, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           77-5406 The following transactions or activities shall  
13 not create any credits or allow any benefits under the Rural  
14 Economic Opportunities Act:

15           (1) The acquisition of a business which is continued  
16 by the taxpayer and which was operated in this state during  
17 three hundred sixty-six days prior to the date of application  
18 or date of acquisition, whichever is later. All ~~employees of the~~  
19 ~~acquired business during such period shall be considered base-year~~  
20 ~~employees, and the compensation paid during the base year or the~~  
21 ~~year before acquisition, whichever is later, shall be the base-year~~  
22 ~~compensation.~~ Any investment in the acquisition of such business  
23 shall be considered as being made before the date of application;

24           (2) The moving of a business from one location to another  
25 when the business was operated in this state during the three

1 hundred sixty-six days prior to the date of application. All  
2 employees of the business during such period shall be considered  
3 base-year employees;

4 (3) The purchase or lease of any property which was  
5 previously owned by the taxpayer or a related person. The first  
6 purchase by either the taxpayer or a related person shall be  
7 treated as investment if the property was first placed in service  
8 in this state after the date of application;

9 (4) The renegotiation of any lease in existence on the  
10 date of application which does not materially change any of the  
11 terms of the lease, other than the expiration date, shall be  
12 presumed to be a transaction entered into for the purpose of  
13 generating benefits under the act and shall not be allowed in  
14 the computation of any benefit or the meeting of any required  
15 employment, wages, and investment levels under the agreement;

16 (5) Any purchase or lease of property from a related  
17 person, except that the taxpayer will be allowed any benefits under  
18 the act to which the related person would have been entitled on  
19 the purchase or lease of the property if the related person was  
20 considered the taxpayer; and

21 (6) Any transaction entered into primarily for the  
22 purpose of receiving benefits under the act which is without a  
23 business purpose other than the reduction of taxes and does not  
24 result in increased economic activity in the state.

25 Sec. 4. Section 77-5540, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           77-5540 The following transactions or activities shall  
3 not create an investment, result in an increase in the number of  
4 new employees, or create any wage benefit credits or investment  
5 tax credits under the Invest Nebraska Act except as specifically  
6 allowed by this section:

7           (1) The acquisition of a business located in this state  
8 which is continued by the company and which was operated in this  
9 state during the three hundred sixty-six days prior to the date of  
10 application or the date of acquisition, whichever is later. ~~All of~~  
11 ~~the employees of the acquired business during such period shall be~~  
12 ~~considered base-year employees.~~ Any investment in the acquisition  
13 of such business shall be deemed to have been made before the date  
14 of application;

15           (2) The moving of a business from one location in this  
16 state to another, which business was operated in this state during  
17 the three hundred sixty-six days prior to the date of application.  
18 All employees of the business during such three hundred sixty-six  
19 days who become employed at the project shall be deemed base-year  
20 employees;

21           (3) The purchase or lease of any property which was  
22 previously owned by the company or a related person. The first  
23 purchase by either the company or a related person shall be treated  
24 as investment if the item was first placed in service in this state  
25 after the date of the application;

1           (4) The renegotiation of any lease in existence on the  
2 date of application which does not materially change any of the  
3 terms of the lease, other than the expiration date, shall be  
4 presumed to be a transaction entered into for the purpose of  
5 generating benefits under the act and shall not be allowed in the  
6 computation of the meeting of any required levels of investment  
7 under the agreement;

8           (5) Any purchase or lease of property from a related  
9 person, except that the company will be allowed benefits under  
10 the act to which the related person would have been entitled on  
11 the purchase or lease of the property if the related person was  
12 considered the company; and

13           (6) Any transaction entered into primarily for the  
14 purpose of receiving benefits under the act which is without a  
15 business purpose and does not result in increased economic activity  
16 in this state.

17           Sec. 5. Section 77-5724, Revised Statutes Cumulative  
18 Supplement, 2008, is amended to read:

19           77-5724 The following transactions or activities shall  
20 not create any credits or allow any benefits under the Nebraska  
21 Advantage Act except as specifically allowed by this section:

22           (1) The acquisition of a business after the date of  
23 application which is continued by the taxpayer as a part of the  
24 project and which was operated in this state during the three  
25 hundred sixty-six days prior to the date of acquisition. All

1 employees of the entities added to the taxpayer by the acquisition  
2 during the three hundred sixty-six days prior to the date of  
3 acquisition shall be considered employees during the base year. Any  
4 investment prior to the date of acquisition made by the entities  
5 added to the taxpayer by the acquisition or any investment in the  
6 acquisition of such business shall be considered as being made  
7 before the date of application;

8 (2) The moving of a business from one location to  
9 another, which business was operated in this state during the  
10 three hundred sixty-six days prior to the date of application. All  
11 employees of the business during such three hundred sixty-six days  
12 shall be considered base-year employees;

13 (3) The purchase or lease of any property which was  
14 previously owned by the taxpayer or a related person. The first  
15 purchase by either the taxpayer or a related person shall be  
16 treated as investment if the item was first placed in service in  
17 the state after the date of the application;

18 (4) The renegotiation of any lease in existence on the  
19 date of application which does not materially change any of the  
20 terms of the lease, other than the expiration date, shall be  
21 presumed to be a transaction entered into for the purpose of  
22 generating benefits under the act and shall not be allowed in the  
23 computation of any benefit or the meeting of any required levels  
24 under the agreement;

25 (5) Any purchase or lease of property from a related

1 person, except that the taxpayer will be allowed any benefits under  
2 the act to which the related person would have been entitled on  
3 the purchase or lease of the property if the related person was  
4 considered the taxpayer;

5 (6) Any transaction entered into primarily for the  
6 purpose of receiving benefits under the act which is without a  
7 business purpose and does not result in increased economic activity  
8 in the state; and

9 (7) Any activity that results in benefits under the  
10 Ethanol Development Act.

11 Sec. 6. Original sections 77-4931, 77-5406, and 77-5540,  
12 Reissue Revised Statutes of Nebraska, and sections 77-4104.01  
13 and 77-5724, Revised Statutes Cumulative Supplement, 2008, are  
14 repealed.